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No. 275

IN THE

Supreme Court of the United States

OCTOBER TERM, 1959

In the Matter of LOCAL 824, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION (IND.),

Petitioner,

against

WATERFRONT COMMISSION OF NEW YORK HARBOR,

Respondent.

In the Matter of JOHN BOWERS,

Petitioner,

against

WATERFRONT COMMISSION OF NEW YORK HARBOR,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK

BRIEF FOR RESPONDENT IN OPPOSITION

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Opinions Below

The Court of Appeals of the State of New York, the Court below, did not render an opinion herein. Rather, the Court of Appeals dismissed without opinion the appeals of petitioners on the ground that the constitutional ques-

tions asserted by petitioners were not directly involved in the decision appealed to the Court of Appeals and that, consequently, under the provisions of Section 588(1)(a) of the New York Civil Practice Act, there was no jurisdiction over the appeal (Petition, App. B, pp. 49-50).

Jurisdiction

The petition does not set forth a statement of the grounds on which the jurisdiction of this Court is invoked. Presumably, however, the jurisdiction of this Court is invoked under Title 28 U.S.C., Section 1257(3).

With respect to the question of jurisdiction, it is respondent's position that this case is moot since the within subpoenas have been complied with and are no longer in force.

Moreover, it is respondent's position that petitioners have failed to obtain a judgment by the highest court of the state in which decision could be had, as required by Title 28 U.S.C., Section 1257.

Questions Presented

1. Where the subpoenas of the Waterfront Commission have been complied with and consequently are no longer in force and effect, whether the motions to quash such subpoenas have become moot.

2. Where petitioners' appeals to the Court of Appeals of the State of New York were dismissed as improperly taken because the decision appealed from did not directly involve the asserted constitutional questions and where petitioners could, but did not, apply for permission to appeal, whether petitioners have obtained a judgment by the highest court of the state in which decision could be had, as required by Section 1257 of Title 28.

3. Where subpoenas are issued by the Waterfront Commission in connection with an administrative investigation and where there are at least three explicit statutory grounds for such investigation, only one of which was related to Section 8 of the Waterfront Commission Act, whether such subpoenas should be quashed on the ground of the alleged unconstitutionality of Section 8 upon motion by persons who are only witnesses in the investigation.

4. Whether Section 8 of the Waterfront Commission Act is constitutional.

Statute Involved

The statutory provisions involved herein are embodied in the Waterfront Commission Act which was enacted by the States of New York and New Jersey in 1953 (N. Y. Laws 1953, c. 882 (McK. Unconsol. Laws 6700aa and following); (N. J. Laws 1953, c. 202 (N.J.S.A., 32:23-1 and following)) for the purpose of eliminating various evils on the waterfront of New York Harbor, which had been publicly exposed by various investigative bodies. Since Part I of the Act encompasses the Waterfront Commission Compact, an interstate compact between the States of New York and New Jersey, Part I of the Act was submitted to and approved by Congress (Act of August 12, 1953, c. 407, 67 Stat. 541).

Article IV, Part I, of the Waterfront Commission Act, relating to the powers of the Waterfront Commission, provides as follows:

> "In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:
>
> • • •
>
> "8. By its members and its properly designated officer, agents and employees, to administer oaths and issue subpoenas throughout both states to compel the

attendance of witnesses and the giving of testimony and the production of other evidence.

* * *

"11. To make investigations, collect and compile information concerning waterfront practices generally within the port of New York district and upon all matters relating to the accomplishment of the objectives of this compact;

* * *

"13. To make annual and other reports to the governors and legislatures of both states containing recommendations for the improvement of the conditions of waterfront labor within the port of New York district, for the alleviation of the evils described in article 1 and for the effectuation of the purposes of this compact.

"14. To cooperate with and receive from any department, division, bureau, board, commission, or agency of either or both states, or of any county or municipality thereof, such assistance and data as will enable it properly to carry out its powers and duties hereunder, and to request any such department, division, bureau, board, commission, or agency, with the consent thereof, to execute such of its functions and powers, as the public interest may require." (McK. Unconsol. Laws 6700dd; N.J.S.A. 32:23-10)

"Witness" is defined under Section 5-a(4) of the Act as "* * * any person whose testimony is desired in any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act." (Mck. Unconsol. Laws 6700tt-1; N.J.S.A. 32:23-85)

In addition the legislature of New York enacted Section 8 of the Waterfront Commission Act, which provides:

"Collection of funds for unions having officers or agents who are felons. No person shall solicit, collect

or receive any dues, assessments, levies, fines or contributions within the state from employees registered or licensed pursuant to the provisions of this act for or on behalf of any labor organization representing any such employees, if any officer or agent of such organization has been convicted by a court of the United States, or any state or territory thereof, of a felony unless he has been subsequently pardoned therefor by the governor or other appropriate authority of the state or jurisdiction in which such conviction was had or has received a certificate of good conduct from the board of parole pursuant to the provisions of the executive law to remove the disability.

"As used in this section, the term 'labor organization' shall mean and include any organization which exists and is constituted for the purpose in whole or in part of collective barganing, or of dealing with employers concerning grievances, terms and conditions of employment, or of other mutual aid or protection; but it shall not include a federation or congress of labor organizations organized on a national or international basis even though one of its constituent labor organizations may represent persons so registered or licensed." (McK. Unconsol. Laws 6700ww)

Section 8 of the Waterfront Commission Act passed by New Jersey differs in certain respects from the New York law. For example, the New Jersey Section 8 is applicable to officers or agents convicted of a "high misdemeanor or misdemeanor involving moral turpitude", as well as a "felony". (N.J.S.A. 32:23-80)

Section 1, Article XVI, Part I, of the Act provides as follows:

"Amendments and supplements to this compact to implement the purposes thereof may be adopted by the action of the legislature of either state concurred in by the legislature of the other." (McK. Unconsol. Laws 6700pp; N.J.S.A. 32:23-70)

Statement

This proceeding involves motions by (1) Local 824 of the International Longshoremen's Association to quash a subpoena duces tecum served upon it by service upon Patrick J. Connolly, President of Local 824, and requesting the production at the Waterfront Commission offices of books and records specified therein; (2) by Local 824 of the International Longshoremen's Association to quash a subpoena duces tecum served upon it by service upon John Bowers, Vice President and Business Agent of Local 824, and requesting the production at the Waterfront Commission offices of books and records specified therein; and (3) by John Bowers to quash a subpoena served upon him individually and requesting his testimony at the offices of the Waterfront Commission (R. 15-24, 42-51, 52-60).

In the summer of 1958, the Waterfront Commission received information that certain notorious waterfront hoodlums with serious criminal records, including felony convictions, had resumed their association with Local 824 and were receiving substantial annual payments of money from Local 824 (R. 25-30). The Commission instituted an investigation in order to ascertain the facts concerning these matters and ultimately, in connection with such investigation, served the within subpoena and subpoenas duces tecum (hereinafter sometimes collectively called "subpoenas").

Petitioners moved to quash the subpoenas, which motions were denied by the Supreme Court of the State of New York on September 24, 1958 (R. 9-14, 63-68). Petitioners appealed to the Appellate Division, First Department, which on November 19, 1958, unanimously affirmed, without opinion, the Supreme Court (R. 77-82).

Petitioners then appealed to the Court of Appeals and applied to Judge Fuld of the Court of Appeals for a stay of the subpoenas pending the appeal. Judge Fuld

denied this application. Thereupon, in December, 1958, the subpoenaed books and records of Local 824 were produced at the offices of the Waterfront Commission, were inspected by the Waterfront Commission, and were returned by the Waterfront Commission to Local 824. In addition, the subpoenaed officers of Local 824 testified at the offices of the Waterfront Commission. Consequently, the subpoena and subpoenas duces tecum of the Waterfront Commission herein involved have been complied with and are no longer in force and effect (See Petition, pp. 43-45).

By motion returnable February 23, 1959, the Waterfront Commission moved in the Court of Appeals to dismiss the appeals of petitioners on the ground that the appeal could not be taken as of right since the decision of the Appellae Division did not necessarily involve a constitutional question (New York Civil Practice Act. Sec. 588(1)(a)) and on the further ground that the controversy had become moot and academic. This motion was denied by the Court of Appeals with leave to renew on the argument (Petition, pp. 18-19). Subsequently, the case was argued and submitted to the Court of Appeals and the Waterfront Commission duly renewed its motion to dismiss the appeals of petitioners. On May 29, 1959, the Court of Appeals, by a vote of 4-2, dismissed the appeals of petitioners upon the ground that the asserted constitutional questions were not directly involved in the decision appealed from (Petition, App. B., pp. 49-50).

Argument

Section 8 of the Waterfront Commission Act (*supra*, pp. 4-5) prohibits the collection of funds from employees registered or licensed to work on the waterfront by the Waterfront Commission for or on behalf of unions representing such employees if any officer or agent of the union has been convicted of a felony unless such officer

or agent has been pardoned. Petitioners insist that Section 8 of the Waterfront Commission Act was the statutory predicate for the investigation involved herein, that Section 8 is unconstitutional, and that, *ergo*, the within subpoenas should have been quashed. These contentions are untenable.

First, since the subpoenas have been complied with and are no longer in effect, the case is moot.

Further, petitioners have not obtained a judgment by the highest court of the state in which decision could be had, as required by Section 1257 of Title 28.

Further, the judgment of the state court rests upon independent non-constitutional grounds.

And in any event, the multiplicity of objections asserted by petitioners to the constitutionality of Section 8 are without substance.

POINT I

The controversy has become moot.

Petitioners explicitly concede that they have already complied with the within subpoenas (Petition, pp. 43-45). Notwithstanding, petitioners urge that this Court exercise its certiorari jurisdiction to decide the asserted questions as to the constitutionality of Section 8 on the ground that these questions may recur should the Waterfront Commission subpoena petitioners again. In support of their position, petitioners rely upon decisions by the New York Court of Appeals deciding questions which have become moot because of the importance of such questions and because such questions were of a recurrent nature (Petition, pp. 43-45).

Whatever may be the state law with respect to deciding controversies that have become moot (which, of course,

is not controlling here, *Amalgamated Association v. Wisconsin Employment Relations Board*, 340 U. S. 416 (1951)), it is settled that a "federal court is without power to decide moot questions or to give advisory opinions which cannot effect the rights of the litigants in the case before it". *St. Pierre* v. *United States*, 319 U. S. 41 (1943). In the *St. Pierre* case, the petitioner therein was sentenced to five months imprisonment for contempt of court for refusal to testify before a federal grand jury. Since petitioner therein had served his sentence, this Court held that the case was moot and dismissed the writ of certiorari that it had previously granted, notwithstanding the fact that the case raised important questions with respect to the constitutional immunity from self-incrimination, notwithstanding the further fact that the Government admitted that the petitioner therein would be required to testify again before the grand jury and that, in the event of petitioner's refusal to testify, his committal would be sought again, and notwithstanding petitioner's contention that his conviction for contempt may impair his credibility as a witness in any future legal proceeding. Thus, that this proceeding is moot appears *a fortiori* from this Court's decision in *St. Pierre*.

POINT II

Petitioners have failed to obtain a judgment by the highest court of the state in which decision could be had, as required by Section 1257 of Title 28.

Section 1257 of Title 28, U.S.C., confers jurisdiction upon this Court to review "[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had". In this case, petitioners have failed to obtain a judgment or decree by the highest court of the state, as required by Section 1257.

As noted, the Court of Appeals dismissed petitioners' appeals upon the ground that the asserted constitutional

questions were not directly involved in the decision appealed from and that, therefore, there was no jurisdiction over the appeal under the provisions of Section 588(1)(a) of the New York Civil Practice Act (Petition, App. B, pp. 49-50). However, an appeal by permission was available to petitioners in the first instance by moving for such permission (1) in the Court of Appeals, or (2) in the Appellate Division, or (3) in the Court of Appeals after such permission had been denied by the Appellate Division (New York Civil Practice Act, Section 589 (3)). Further, after dismissal of their appeals by the Court of Appeals, petitioners still had the right to appeal by permission to the Court of Appeals by moving for such permission (1) in the Court of Appeals, or (2) in the Appellate Division, or (3) in the Court of Appeals after refusal of such permission by the Appellate Division (New York Civil Practice Act, Section 592(3)(b)). Petitioners, however, did not move for permission to appeal at any time, either before or after the dismissal of their appeals by the Court of Appeals.

Hence, it is clear that petitioners have not obtained a judgment or decree "by the highest court of a State in which a decision could be had", which alone is reviewable by this Court under Section 1257. The dismissal of petitioners' appeals is of course not the equivalent of an affirmance on the merits by the Court of Appeals; rather, petitioners' appeals were dismissed because under well settled principles they failed in "the burden [upon appellants] of presenting to us [the Court of Appeals] a record which establishes that such construction [presenting the constitutional question] has not only directly but necessarily been involved in the decision of the case. If the decision was or may have been based upon some other ground, the appeal will not lie." *Matter of Haydorn* v. *Carroll*, 225 N. Y. 84, 88 (1918). Consequently, the writ of certiorari is not available to petitioners. *McMaster* v. *Gould*, 276 U. S. 284 (1928).

POINT III

The judgment of the state court rests upon independent non-constitutional grounds.

As was held by the Court of Appeals, the judgment herein rests upon independent non-constitutional grounds.

The Commission, as stated, had instituted the investigation involved herein because of information received by the Commission that certain notorious waterfront hoodlums with serious criminal records, including felony convictions, have resumed their association with Local 824 and were receiving substantial annual payments of money from Local 824 (R. 25-30). The Waterfront Commission is invested with broad statutory powers of investigation and there were several explicit statutory bases for such an investigation. Thus, that notorious hoodlums and felons may be in control of waterfront labor unions was a matter unquestionably within the ambit of the statutory provision empowering the Commission "to make investigations, collect and compile information concerning waterfront practices generally" (Article IV, Section 11; *supra*, p. 4). It was also unquestionably a matter concerning which the Commission may have properly deemed it advisable "[t]o make annual and other reports to the governors and legislatures of both states containing recommendations for the improvement of the conditions of waterfront labor within the port of New York district" (Article IV, Section 13; *supra*, p. 4). In addition, the Commission was also seeking to ascertain whether Section 8 of the Act, one of the statutory remedies designed to eliminate evil conditions on the waterfront, was being violated (R. 30). Such possible violations of Section 8 were a matter concerning which the Commission may have properly deemed it advisable "to request [a state] * * * agency, with the

consent thereof, to execute such functions and powers, as the public interest may require" (Article IV, Section 14; *supra*, p. 4).

Only the last of these several statutory provisions which authorized such investigation was related to Section 8 of the Waterfront Commission Act in that any evidence of violations of Section 8 would be forwarded by the Waterfront Commission to the appropriate prosecuting office. Accordingly, there was ample statutory authority for such investigation entirely apart from Section 8 of the Waterfront Commission Act. This being so, it followed, of course, that there was no need for the state courts to pass on the constitutionality of Section 8. *Schieffelin* v. *Goldsmith*, 253 N. Y. 243, 250 (1930).

Further, and entirely independent of the foregoing, the constitutionality of Section 8 was not subject to collateral attack by petitioners. The only proceeding that affected petitioners, in any way whatever was an investigation. What that investigation would disclose and how it would affect petitioners, if at all, was unknown. Thus, petitioners had no legitimate concern at the investigative stage with the constitutional validity of Section 8. Indeed, this Court, itself, has squarely held that a witness in an investigation may not collaterally attack the constitutionality of the statute constituting the subject matter of the investigation. *Howat* v. *State of Kansas*, 258 U. S. 181, 184-186 (1922) (witness in administrative investigation under act providing for compulsory arbitration could not refuse to testify on ground of alleged unconstitutionality of act); *Blair* v. *United States*, 250 U. S. 273 (1919) (witnesses before federal grand jury investigating violations of Federal Corrupt Practices Act could not refuse to testify on ground of alleged unconstitutionality of Act).

It is therefore apparent that there are independent, non-constitutional grounds for the judgment of the state court sought to be reviewed herein by petitioners. Ordinarily,

it would be sufficient to preclude review by this Court if these non-constitutional grounds were substantial. *Lawrence* v. *State Tax Commission of Mississippi*, 286 U. S. 276, 282 (1932). We recognize, though, that questions concerning the construction of an interstate compact are themselves questions reviewable by this Court, *Petty* v. *Tennessee-Missouri Bridge Commission*, 358 U. S. 811 (1959), and that this may possible include the non-constitutional grounds upon which the judgment of the state court herein rests. However, it is manifest, we respectfully submit, that the non-constitutional grounds upon which the judgment herein rests are not only substantial but are entirely correct.

POINT IV

In any event, the multiplicity of objections asserted by petitioners to the constitutionality of Section 8 of the Waterfront Commission Act are without merit.

Petitioners make a blunderbuss attack upon the constitutionality of Section 8 of the Waterfront Commission Act, asserting a multiplicity of contentions for the invalidity of Section 8. These numerous contentions are considered below *seriatim*—as well as briefly, since they are without substance and so as not to unduly extend this brief.

1. Petitioners contend that Article XVI of the Waterfront Commission Compact provides that the states by concurrent action may enact amendments and supplements to the Compact to implement the purposes thereof (*supra*, p. 5) and apparently that Section 8 is an amendment to the Compact which is invalid because it was enacted without the consent of Congress and because it is contrary to, rather than being in implementation of, the purposes of the Compact (Petition, pp. 24-33). Petitioners' basic error is their assumption that Section 8 constitutes an amendment to the Compact, and petitioners' entire argument falls therewith.

The Waterfront Commission Act enacted by New York and New Jersey in 1953 contains three parts (New York Laws 1953, c. 882; New Jersey Laws 1953, c. 202). Part I, consisting of Section 1, contains sixteen articles [Arts. I-XVI], and encompasses a Waterfront Commission Compact between the states of New York and New Jersey. Since this part of the Act embodied a compact between states, Congressional approval was necessary under Article I, Section 10 of the Constitution of the United States, and such approval was granted by Congress on August 12, 1953 (67 Stat. 541).

Part II of the Waterfront Commission Act consists of Sections 2 through 5 and relates to such matters as expenses of administration, pensions and leaves of absence, penalties and federal funds. Under Section 12 of the Waterfront Commission Act passed by New York, Sections 1 through 5 (parts I and II) became effective upon enactment of identical legislation by New Jersey.

Part III of the Act consists of Sections 7 through 12 and embodies individual state statutes such as a prohibition against loitering on the waterfront (Section 7), a prohibition against the collection of funds for waterfront unions which have officers or agents who are felons (Section 8) and various technical legislative provisions. Under Section 12 of the Waterfront Commission Act passed by New York, Section 8 and Section 7 (the prohibition against loitering) became effective as individual state statutes on September 4, 1953, irrespective of the passage of similar legislation by New Jersey.

Thus, Section 8 is part of the Waterfront Commission Act, which also embodies the Waterfront Commission Compact. However, unlike the Compact whose effectiveness was contingent upon the passage of similar legislation by New Jersey and which required the consent of Congress, Section 8 became effective on a date certain irrespective of the passage of similar legislation by New Jersey. (New

Jersey did in fact enact substantially identical legislation in its Waterfront Commission Act.) Section 8 deals with the problem of corrupt waterfront labor unions in New York, a subject not covered by the Compact which primarily is a statute licensing certain waterfront companies and workers in the "port of New York district," an area which is defined by Article II of the Compact and which extends into both New York and New Jersey (McK. Unconsol. Laws, § 6700bb; N.J.S.A. 32:23-6). Thus, Section 8 is an individual state statute dealing with a waterfront problem in New York not encompassed by the Compact. In this respect, it is similar to Section 7 (prohibiting loitering on the waterfront), which also is an individual state statute enacted by New York as part of its Waterfront Commission Act to deal with a waterfront problem in New York not covered by the Compact.

In short, therefore, the Compact is joint legislation by New York and New Jersey to deal cooperatively with certain waterfront problems in an area extending into both New York and New Jersey. Section 8 passed by New York, on the other hand, is an individual state statute enacted to deal with certain waterfront problems in New York not covered by the Compact. That New Jersey enacted substantially identical legislation to deal separately with the same problem in New Jersey does not of course constitute Section 8 either an amendment to the Compact or an interstate compact requiring Congressional approval.

2. Petitioners contend that Section 8 deprives Local 824 of its property without due process of law (Petition, pp. 33-35). Petitioners did not argue this point in the Appellate Division and, as asserted by the Commission in its brief, the point therefore could not be raised in the Court of Appeals. *E. J. Eddy, Inc.* v. *Fidelity and Deposit Co.*, 265 N. Y. 276 (1934). And since the point was not properly preserved in the state courts, it may not of course be asserted before this Court.

Further, it is not entirely clear whether the attack on Section 8 is upon its face or as it may be applied. For petitioners complain that under Section 8 "a Local of the labor organization is restrained from collecting any moneys whatsoever if a mere agent had been convicted of a felony in the State of California some thirty or forty years ago" (Petition, p. 34). Certainly, this example is entirely hypothetical at this time insofar as petitioners are concerned. Moreover, Section 8 is not as inexorable as petitioners contend, for it is specifically provided therein that Section 8 does not act as a bar where the convicted officer or agent has obtained a pardon.

If petitioners' attack is on Section 8 on its face, then the invocation of the due process clause is frivolous since unquestionably Section 8 bears a substantial and reasonable relation to the elimination of a substantive evil. *Nebbia* v. *People of State of New York*, 291 U. S. 502, 525 (1934).

3. Next, petitioners contend that Section 8 prohibiting the collection of funds for waterfront unions having officers or agents who are convicted felons is violative of due process because Section 8 does not require knowledge by the person collecting the funds that such officers or agents were in fact felons (Petition, pp. 35-36).

Again, since we do not have an actual case, this contention is entirely hypothetical at this time. Petitioners assume that knowledge is not an element of the offense under Section 8; whether or not this is true must await determination by the state courts in an appropriate case. And in any event, a criminal statute is valid notwithstanding the fact that knowledge is not a necessary element of the offense. *United States* v. *Balint*, 258 U. S. 250 (1922) (sale of narcotics).

4. Petitioners further assert that Section 9(h) of the National Labor Relations Act (29 U.S.C., § 159(h)) has

pre-empted the area relating to qualifications of union officers by requiring union officers to execute a non-Communist affidavit and that, therefore, Section 8 is unconstitutional (Petition, pp. 37-39). Again, this point was not preserved by petitioners since, as stated by Commission in its brief in the Court of Appeals, the point was not argued by petitioners in the Appellate Division. In any event, with respect to the merits of this objection, we content ourselves with pointing out that there is no similarity whatsoever between the requirement of a non-Communist affidavit and a prohibition against felons in labor unions.

5. Finally, petitioners contend in Point VI in their petition for certiorari that Section 8 violates Section 17 of Article I of the Constitution of the State of New York in that it denies to members of Local 824 the right to choose their own collective bargaining representatives (Petition, pp. 40-42). This of course is not a federal question reviewable by this Court.

Petitioners do advert to an alleged conflict between Section 7 of the National Labor Relations Act (29 U.S.C., § 157), providing that employees shall have the right to bargain collectively through representatives of their own choosing, and Section 8 of the Waterfront Commission Act. It is not clear, however, whether this is asserted as an independent ground for the invalidity of Section 8 or to buttress petitioners' argument that Section 8 violates Section 17 of Article I of the Constitution of the State of New York. Point VI in the petition for certiorari is identical with the corresponding point in petitioners' brief in the Court of Appeals. Consequently, as "it is well settled in this Court that it must be made to appear that some provision of the Federal, as distinguished from the state, Constitution was relied upon", *New Central & H. R. R. Co.* v. *New York*, 186 U. S. 269, 273 (1902), petitioners have not properly preserved the federal question involving Section 7 of National Labor Relations Act, assuming that

they do in fact claim a conflict with Section 8 of the Waterfront Commission Act.

The contention in any event is without merit. Both the Supreme Court of the State of New Jersey, in an opinion by Justice Brennan, and the Court of Appeals of the State of New York have unanimously held in decisions, which are entirely persuasive and which we respectfully commend to this Court, that there is no conflict between Section 8 of the Waterfront Commission Act and Section 7 of the National Labor Relations Act. *Hazelton* v. *Murray*, 21 N. J. 115, 121 A. 2d 1 (1956); *De Veau* v. *Braisted*, 5 N. Y. 2d 236, 157 N. E. 2d 165 (1959) (now on appeal to this Court).

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

Respectfully submitted,

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Dated: August 28, 1959.